

## Board Legislation – Stakeholder Information Request

Information Request	AIR	WASTE	WATER
<p>1. Permit Processing Times (average or range) for Individual Permits</p> <p>Note: These are estimates and based on data available which varies by program. These estimates are based on the period from submission of a complete application to permit issuance and actual review times may vary depending on issues raised through technical evaluation and discussions with permittee.</p>	<p><b><u>Minors w/ hearing:</u></b> ≈ 71 days</p> <p><b><u>Minors w/o hearing:</u></b> ≈ 34 days</p> <p><b><u>State Major:</u></b> ≈ 71 days</p> <p><b><u>PSD/NNSR:</u></b> ≈ 212 days</p> <p><b><u>Title V:</u></b> ≈ 1215 days</p> <p><b><u>Board Decision:</u></b> Example 1: The CPV Warren PSD permit went before the board in 2005. The CPV Warren permit was for a natural gas fired combined cycle turbine located within 7 km of the Shenandoah National Park. The permit was issued in 322 days.</p> <p>Example 2: In December 1995, the minor NSR CaseLin Medical Waste Incinerator permit went before the board. The board requested to see the permit because it was the first permit to be issued under the new medical waste incinerator rules. The permit</p>	<p><b><u>Solid Waste:</u></b></p> <p><b><u>Landfill:</u></b> ≈ 335-690 days (Part A) ≈ 420-510 days (Part B)</p> <p><b><u>Treatment &amp; Storage:</u></b> ≈ 510-690 days</p> <p><b><u>Hazardous Waste:</u></b></p> <p><b><u>Storage and Treatment:</u></b> ≈ 175 - 255 days</p> <p><b><u>Transportation:</u></b> ≈ 2 - 10 days</p> <p><b><u>Emergency:</u></b> ≈ 5 - 10 days</p> <p><b><u>Land Disposal:</u></b> ≈ 235 - 385 days</p> <p>Note 1: The Board has no role in waste permits, so there is no information about the difference in times for review</p> <p>Note 2: Time frames are presented as ranges rather than averages because there are relatively few permit actions in this category.</p>	<p><b><u>VPDES:</u></b></p> <p><b><u>Issuance/Modification:</u></b> ≈ 185 days w/o hearing - 350 days w/ hearing and Board decision</p> <p><b><u>Renewal:</u></b> ≈ 185 days w/o hearing - 515 days w/ hearing and Board decision</p> <p><b><u>VPA:</u></b> ≈ 150 days w/o hearing + 90-150 additional days w/hearing and Board decision</p> <p><b><u>Ground Water Withdrawal:</u></b> ≈ 450 days w/o hearing + 90-180 additional days w/ hearing and Board decision</p> <p><b><u>VWP:</u></b> ≈ 98 days + 90-150 additional days w/ hearing and Board decision</p>

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	<p>issuance of the permit was delayed by about a month until the Board could meet.</p> <p>Example 4: September 11, 1997 – The Board authorized the issuance of a PSD permit to Merck. The Department presented this permit action to the Board in conjunction with the approval of a variance (which is a regulation and therefore not delegated to the Department) to the air regulations for Merck’s Project XL.</p> <p>Example 3: The Mirant SO2 SOP is the only permit that has been developed and issued at the direction of the Air Board. Because there was no application to start the permit processing clock, it is difficult to compare this situation to others. The Board published options to the public regarding various permitting options on April 21, 2007 and a permit was issued on June 1, 2007.</p>	<p>Note 3: With respect to solid waste permits, these estimates may differ from information provided in the Permit Fees Program Evaluation report (Jan. 2006) <a href="http://www.deq.virginia.gov/regulations/reports.html">http://www.deq.virginia.gov/regulations/reports.html</a> as the information provided here is based on more recent data and attempted to capture the period of time from application submission to actual permit issuance rather than hours/days worked solely on a particular permit.</p>	
2. How many individual permit holders are there in Virginia (excluding general permits)?	<p>≈ 2700 permitted sources</p> <p>(Note: 295 are Title V sources; 248 have state operating permits)</p>	<p><b><u>Solid Waste:</u></b> 421 permits</p> <p><b><u>Hazardous Waste:</u></b> <u>Storage, treatment and disposal facilities:</u> 41</p>	<p><b><u>VPDES:</u></b> 1090 permits</p> <p><b><u>VPA:</u></b> 180 permits</p> <p><b><u>Ground Water Withdrawal:</u></b> 240 permits held by 157</p>

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		<u>HW transporters:</u> 296	facilities/owners.  <b><u>VWP (2000-06):</u></b> 353 permits
3. How many new permits have been issued over the last 5 years? How many permit renewals have been issued over the last 5 years?	<b><u>New Permits:</u></b>  <u>Minor:</u> 2217  <u>State Major:</u> 24  <u>SOP:</u> 319  <u>PSD/NNSR:</u> 25  <u>Title V:</u> 159  <b><u>Renewals (Title V only):</u></b> 84	<b><u>Solid Waste:</u></b> New permits: 1  Renewals: No renewals, permits are for life of facility.  Major Amendments: Part B – 40 Groundwater – 94  <b><u>Hazardous Waste:</u></b> New Permits: 9 (not including transporter or emergency permits)  Renewals: 12 (not including transporter or emergency permits)	<b><u>VPDES:</u></b>  New permits: ≈ 100 individual permits  Renewal: ≈ 990  <b><u>VPA:</u></b> New: 6 Renewal: 25  <b><u>Ground Water Withdrawal:</u></b> New: 105 Renewal: 7  <b><u>VWP (2000-06):</u></b> New: 400 Renewal: No data.
4. How many permits have been rejected over the past 5 years (including denials, tentative/proposed denials and withdrawn based on agency	During the past 5 years, 2 applications/requests have been denied:  In FY2000, a request for fuel change without modifying existing permit was denied.	<b><u>Solid Waste:</u></b> During the past 5 years, one application for a change in a landfill permit owner was denied by DEQ.  DEQ does not have data regarding the number of solid waste permit applications	<b><u>VPDES:</u></b> The Board has denied 2 permits, one in 2004 and one in 2006; 1 permit was withdrawn in response to agency feedback.  <b><u>VPA:</u></b> No permits have been rejected

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<p>comments) and the type of permit activity proposed for each?</p>	<p>In FY2005, a request for rescission of a SOP (based on source arguing it was too small to require a permit) was denied because rescission of the synthetic minor SOP would have required issuance of a Title V permit.</p> <p>Several permit applications/requests have been withdrawn during the past 5 fiscal years (2000-06):</p> <p><b><u>PSD/NSR:</u></b> 14  <b><u>State Major:</u></b> 2  <b><u>State Minor:</u></b> 210  <b><u>Title V:</u></b> 52  <b><u>SOP:</u></b> 36</p>	<p>that have been withdrawn.</p> <p><b><u>Hazardous waste:</u></b>  Since 1993, only 1 hazardous waste permit has been denied: A hazardous waste transporter permit - denied in 1995. This denial was not appealed.</p>	<p>during the past 5 years.</p> <p><b><u>Ground Water Withdrawal:</u></b>  No GWW permits have been denied, tentatively denied or withdrawn based on agency comments during the last 5 years. Several applications have been significantly modified based upon comments and review by staff.</p> <p><b><u>VWP:</u></b>  During the past 5 years, 3 VWP permits have been denied, 6 have been tentatively denied and 3 withdrawn.</p>
<p>5. Were there any appeals of these denials (#8 above) and, if so, was the denial upheld?</p>	<p>The denials described above were not appealed.</p> <p>A few air permits (4) have been the subject of appeals challenging certain provisions of the permits. Of those 4, only 1 permit appeal went to hearing and the challenged provisions were upheld by the court.</p>	<p><b><u>Solid waste:</u></b>  Since 1993, 9 landfill permits have been appealed through the administrative appeal process and 6 landfill permits have been the subject of a judicial appeal.</p> <p><b><u>Hazardous waste:</u></b>  No hazardous waste permits have been appealed administratively since 1993 (appeals to address permit conditions have been for judicial review and made to Circuit Court, but as indicated above, none were for denials).</p>	<p><b><u>VPDES:</u></b>  Since 1993, 11 permits have been appealed and of those, only 2 went to hearing (the rest were resolved without litigation).</p> <p><b><u>VPA:</u></b> No administrative appeals during the last 5 years.</p> <p><b><u>Ground Water Withdrawal:</u></b>  No appeals in last 5 years.</p> <p><b><u>VWP:</u></b> There have been at least two appeals and reconsiderations during the last 5 years. The Board reconsidered and revised its decision in those cases.</p>

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6. How frequently does the board vary from agency recommendations (and in what direction)?	See attachment.	See attachment.	See attachment.
7. Potential workload associated with the appeals board v. current structure? Impact if the appeals board makes binding decisions v. non-binding decisions?	<p>A potential conflict may arise if the appeals board were given authority to make binding decisions rather than non-binding decisions because the interests of the appeal board and DEQ would not be the same, so there may be an issue with respect to which entity the AG's office would represent.</p> <p>DEQ is working with the OAG to develop a fiscal impact assessment of the additional work associated with the appeals board versus the current structure.</p>		